

Joanne Brogan
37 Blue Sky Path
Gouldsboro, PA 18424

Plaintiff

v.

ARS National Services, Inc.
201 W. Grand Avenue
Escondido, CA 92025

Defendant

Court of Common Pleas of Wayne County
– Civil Action

Case No. 265-CV-2017

Jury Trial Demanded

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claim set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED RATE OR NO FEE.

North Penn Legal Services
925 Court Street
Honesdale, PA 18431
(877) 515-7465

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Joanne Brogan,	Plaintiff	Court of Common Pleas of Wayne County – Civil Action
v.		
ARS National Services, Inc.,	Defendant	Case No. <u>265-CV-2017</u>
		Jury Trial Demanded

COMPLAINT

I. Introduction

1. This is an action for damages brought by an individual consumer for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“the Act”) which prohibits debt collectors from engaging in abusive, unfair, and deceptive practices.

II. Jurisdiction

2. Jurisdiction of this Court is proper pursuant to 15 U.S.C. § 1692k(d), which permits an action under the Act to be brought in any court of competent jurisdiction.

3. Venue in this district is proper in that Defendant transacts business here and the conduct complained of is alleged to have occurred here.

III. Parties

4. Plaintiff, Joanne Brogan, is a natural person residing at 37 Blue Sky Path, Gouldsboro, PA 18424.

5. Defendant, ARS National Services, Inc., (“ARS”) is a corporation engaged in the business of collecting debts in this state with a place of business located at 201 W. Grand Avenue, Escondido, CA 92025 and is a “debt collector” as defined by the Act, 15 U.S.C. § 1692a(6).

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PROthonARY AND
CLERK OF COURTS
WAYNE COUNTY, PA

IV. Statement of Claim

6. Within the past year ARS was attempting to collect from Plaintiff an alleged account that was identified by a number ending in 0877 ("the Account").

7. The Account is a "debt" as that term is defined by the Act, 15 U.S.C. § 1692a(5).

8. ARS regularly uses the mails to attempt to collect consumer debts alleged to be due another.

9. On or about June 10, 2016, ARS caused to be mailed a letter addressed to Plaintiff.

10. A true and correct copy of the letter is attached as Exhibit A. (Redacted to ensure financial privacy).

11. The letter was an attempt to collect the Account.

12. A collection letter is viewed from the perspective of the least sophisticated consumer.

13. If the least sophisticated consumer could give two different meanings to ambiguous language, and if one of those meanings is inaccurate, then the letter is deceptive.

14. Here the collection letter stated, *inter alia*:

"Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. . . . Please call us at (800) 976-0960 with any questions or to discuss all your payment options. . . ."

15. This language would convey to a consumer who disputed a debt that the consumer could orally exercise his rights to lodge a dispute and thereby prevent the debt collector from assuming that the debt is valid.

16. However, an oral dispute is “not a legally effective alternative for disputing the debt.” *Caprio v HRRG, LLC*, 709 F.3d, 142, 151 (3d Cir. 2013); *see also Graziano v. Harrison*, 950 F.2d 107, 112 (3d Cir. 1991)(“there are strong reasons to prefer that a dispute of a debt collection be in writing: a writing creates a lasting record of the fact that the debt has been disputed, and thus avoids a source of potential conflicts.”)


17. The excerpted language quoted in ¶ 14 above omits a portion of the letter as indicated by the ellipses. That omitted language *did* notify the consumer that the consumer *must* dispute the debt in writing if she wished to receive a written copy of (a) verification of the debt, (b) a judgment, or (c) the name and address of the original creditor.

18. However, a consumer who did not care to receive this written information and who instead only wished to dispute the validity of the debt could believe that an oral dispute would be the fastest and simplest way to accomplish that goal.

19. Defendant violated the Act, 15 U.S.C. § 1692g.

WHEREFORE, Plaintiff demands judgment against Defendant for damages, costs, attorney’s fees, and such other and further relief as the Court deems just and proper.

Respectfully Submitted,



Carlo Sabatini
Bar Number PA 83831
Attorney for Plaintiff
Sabatini Law Firm, LLC
216 N. Blakely St.
Dunmore, PA 18512
Phone (570) 341-9000

Verification by Plaintiff Joanne Brogan

I affirm that the averments of fact contained in this pleading are true upon my personal knowledge or information and belief.

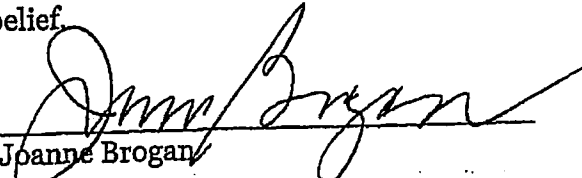

Joanne Brogan

Exhibit A

(Letter dated June 10, 2016)

08/20/2016 14:25 FAX

029

Department #127199
P.O. Box 3006
Phoenixville, PA 19400



ARS National Services Inc.
PO Box 469100
Escondido, CA 92046-9100
(800) 976-0960
FAX: (866) 422-0765
www.PayARS.com

June 10, 2016



041015

JOANNE BROGAN
37 BLUE SKY PATH
GOULDSBORO PA 18424-8810

ACCOUNT IDENTIFICATION

Creditor: Citibank, N.A./CITI AADVANTAGE WORLD
MASTERCARD
Account No.: *****2139
ARS Reference No.: 0877
Balance: \$15,665.00

Welcome to ARS!

Dear Sir/Madam,

ARS is a national organization experienced in helping customers resolve their outstanding balances. Citibank has placed your account referenced above with ARS. We look forward to working with you to find a repayment plan that fits your financial situation.

We may have payment options that weren't available to you in the past. Right now we are offering to settle your account for the reduced amount of \$10,182.25. That's a savings of \$5,482.75.

If you cannot make the settlement payment by 7/15/2016, please contact us to discuss alternative arrangements. We reserve the right to treat any missed or late payment as a cancellation of the agreement. All payments we receive from you will be applied to reduce your balance. Even if this settlement is cancelled due to a missed payment there may be opportunities to settle at a later date. We are not obligated to renew this offer.

To review a range of payment options 24 hours a day, please visit our website at www.PayARS.com. To access your account, you'll be asked to provide your ARS Reference Number (0877). ARS also offers "Quick Check" by phone, Western Union "Quick Collect" (Code City: ARS 0877), and Moneygram "Express Payment" (Receive Code: 71). Payments, made payable to Citibank, can be mailed to the ARS Escondido, CA address above.

Citibank, N.A./CITI AADVANTAGE WORLD MASTERCARD will report any discharge of indebtedness as required by the Internal Revenue Code and corresponding IRS regulations. Please contact your tax advisor if you have any questions.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

We are committed to helping you resolve your balance. Please call us at (800) 976-0960 with any questions or to discuss all your payment options. Office hours are Monday through Friday, 6:00 a.m. - 7:00 p.m. and Saturday 6:00 a.m. - 10:00 a.m. (Pacific Time).

Sincerely,

CATHRYN VALLES X1094

Account Representative

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.



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